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AUSA Lisa Asif
United States Attorney
United States Courthouse, Suite 9200
One Courthouse Way
Boston, MA 02210

February 18, 2007

Re: United States v. Kirk Rinaldi
Case No. 03-CR-10385-RGS

Dear AUSA Asiaf:

Pursuant to Fed. R. Crim. P. 12 (b)(4), 16(a) and 26.2, Local Rule 116.3 (A) , *Brady v. Maryland*, 373 U.S. 83 (1963), and all other applicable rules and statutes, I am writing to request discovery in the above-captioned case.

- (1) *Request for Preservation of Evidence*: The defendant specifically request that all videotapes, audio tapes, or any other physical evidence that may be destroyed, lost, or otherwise put out of the possession, custody or care of the government and which relate to the arrest or the events leading to the arrest in this case be preserved.
- (2) *Arrest Reports, and Notes*: The defendant requests that all any rough notes, records, reports, transcripts, or other documents in which the statements of the defendant or any other discoverable material is contained be provided. This is all discoverable under Fed. R. Crim. P. 16 (a) (1) (A) and *Brady v. Maryland*, 373 U.S. 83 (1963). *See also U.S. v. Johnson*, 525 F.2d 999 (2d Cir. 1975); *U.S. v. Lewis*, 511 F.2d 798 (D.C.Cir. 1975).
- (3) *Surveillance Reports and Notes*: The Defendant requests that he be provided with any, reports, documents, videos or notes by any law enforcement agency including but not limited to the Woburn Police Department, Everett Police Department, or ATF Agency which details any surveillance or investigation of the Defendant Kirk Rinaldi or the address of 534 Broadway, Everett Ma from October 2001 until January 31 2002.
- (4) *View Evidence*: As mentioned in your prior Correspondence with me, I'd like to request to view (1) all evidence removed from Rinaldi's home and (2) all evidence which you intend to introduce at trial.

- (5) *Reports of Examinations and Tests under Rule 16 (a)(1)(D)*. The defendant requests that he be provided with the drug analysis certificates, as well as all notes and worksheets by the drug analyst who tested the substance.
- (6) *Expert Witnesses*: The defendant requests he be provided, unless already provided, with a written summary of any testimony that the government intends to use under Federal Rules of Evid. 702, 703 or 705. The defendant is entitled to such information pursuant to Fed. R. Crim. P. 16(a)(1)(G).
- (7) *Government Examination of Law Enforcement Personnel Files* The defendant requests that the government examine the personnel files and any other files within its custody, care or control, or which could be obtained by the government, for all testifying witnesses, including testifying officers and agents who may have been controlling or contacting the confidential informant in this case. The defendant requests that these files be reviewed by the government attorney for evidence of perjurious conduct or other like dishonesty, any evidence that any prospective government witness is biased or prejudiced against the defendant, or has a motive to falsify or distort his or her testimony.
- (8) *Prior Law enforcement history with the defendant*: The defendant requests that he be informed of any prior interaction or knowledge that the particular officers claim to have had with the defendant Kirk Rinaldi.
- (9) *Impeachment Evidence*: The defendant requests any evidence that any prospective government witness or any government agent who has participated in the investigation of this case has engaged in any criminal act, whether or not resulting in a conviction, and whether any witness has made a statement favorable to the defendant. *See* Fed. R. Evid. 698, 609 and 613. Such evidence is discoverable under *Brady v. Maryland*, 373 U.S. 83 (1963).
- (10) *Promises, Rewards and Inducements*: The defendant requests the government provide him the following: The specific dates on which the government spoke to the cooperating source which provided information regarding Rinaldi. The Defendant further requests a statement as to what if any assistance or benefit was provided to this government witness. The Defendant would also request a copy of the any promise, reward or inducement reduced to writing. Such evidence is discoverable pursuant to Local Rule 116.2 (B)(1)(c).
- (11) *Evidence of Criminal Investigation of Any Government Witness*: The defendant requests any evidence that any prospective witness is under investigation by federal, state, or local authorities for any criminal conduct. *U.S. v. Chitty*, 760 F.2d 425 (2d Cir. 1985);
- (12) *Evidence Affecting Perception, Recollection, Ability to Communicate, or Truth Telling*: The defendant requests any evidence, including any medical or psychiatric report or evaluation, tending to show that any prospective witness' ability to perceive, remember, communicate, or tell the truth is impaired; including but not limited to

whether any witness' vision is impaired and whether they use contact lenses or glasses to correct their vision, any evidence that a witness has ever used narcotics or other controlled substance, or has ever been an alcoholic. *U.S. v. Strifler*, 851 F.2d 1197 (9th Cir. 1988); *Chavis v. North Carolina*, 637 F.2d 213, 224 (4th Cir. 1980).

- (13) *Jencks Act Material*: The defense requests pretrial and pre-motion production of all material to which the defendant is entitled pursuant to the *Jencks*, 18 U.S.C. §3500, and Fed. R. Crim. P. 26.2, which has not already been provided.
- (14) *Bad Acts Evidence*: The defendant requests disclosure of all prior and subsequent crimes, wrongs, or acts allegedly committed by the defendant on which the Government intends to rely or intends to offer as evidence to prove motive scheme, opportunity, intent preparation, plan, knowledge, identity or absence of mistake or accident.

If you have any questions regarding these discovery requests, please feel free to contact me at (617) 531-0135. Thank you in advance for your attention to this matter.

_____/s/ Eduardo Masferrer_____
Eduardo Masferrer
Counsel for Kirk Rinaldi